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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,799	02/08/2001	Andrew G. Avinger	34753/79317	6750

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EXAMINER

CHAN, KO HUNG

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,799

Applicant(s)

AVINGER, ANDREW G.

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, "the wreath hook" lacks proper antecedent basis. It should be corrected to "the hook member".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudsen'851 in view of Harlow'864. Knudsen'851 discloses a wreath hanger comprising an elongated hanger strip (14) having an upper end with a rearwardly facing hook (42) and a downwardly extending portion (40), an elongated hook strip (10) having a lower end with a forwardly facing hook member (20) and an upper portion (24) wherein the hook strip vertically adjustable along the hanger strip (via adjustment holes (44, fig. 3). However, Knudsen'851 does not show the vertical adjustment connection as being forwardly facing detents on the hanger strip inserted into a slide member aperture of the hook strip and engaging rearward facing projection and resilient biasing

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back tab on the hook strip nor the hanger is molded plastic of the polycarbonate resin type. Harlow'864 teaches in a vertically adjustable displaying device of having a hanger strip (78, figure 12) comprising an upper end with resilient hooks (76) and a downwardly extending portion (78) having a plurality of vertically separated, forwardly facing detent members (84, fig. 8) and an elongated hook strip (44, figure 10) having a lower end comprising forwardly facing hooks (52), an upper portion comprising resilient engagement tab (64, figure 8) having a rearwardly facing projection (70, fig. 11), a slide member (54, fig. 10) attached to and cooperating with the upper portion of the hook strip to define an aperture (62) through which the downwardly extending portion of the hanger strip is insertable to create an interfering fit between the rearwardly facing projection and the detent members (figure 8), the slide member further comprising an upwardly extending resilient backing tab (44 adjacent 60, fig. 10) spaced apart from the rearwardly facing projection, the backing tab biasing an aligned detent member of the hanger strip into engagement with the rearwardly facing projection of the hook strip wherein the hanger and hook are molded of resilient plastic (Col. 2, line19, Col. 3, lines 45-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vertical adjustment connection of Knudsen'851 with the detent and slide member interlocking vertical adjustment taught by Harlow'864 to eliminate the use of nuts and bolts for a quick vertical adjustment connection and to mold the hanger of Knudsen'864 from resilient plastic material as taught by Harlow'864 such that the hooks and connections can be resiliently deformed for interlocking

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engagements. Further, it would have been an obvious matter of design choice to make the hanger from polycarbonate resin as such material is old and well-known.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudsen'851 in view of Benjamin'455. Knudsen'851 discloses a wreath hanger comprising an elongated hanger strip (14) having an upper end with a rearwardly facing hook (42) and a downwardly extending portion (40), an elongated hook strip (10) having a lower end with a forwardly facing hook member (20) and an upper portion (24) wherein the hook strip vertically adjustable along the hanger strip (via adjustment holes (44, fig. 3). However, Knudsen'851 does not show the vertical adjustment connection as being forwardly facing detents on the hanger strip inserted into a slide member aperture of the hook strip and engaging rearward facing projection and resilient biasing back tab on the hook strip nor the hanger is molded plastic of the polycarbonate resin type. Benjamin'851 teaches in a vertically adjustable displaying device of having a hanger strip (114, figure 11) comprising a downwardly extending portion (114) having a plurality of vertically separated, forwardly facing detent members (120, fig. 11) and an elongated support strip (130, figure 12) having an upper portion comprising resilient engagement tab (140, figure 11) having a rearwardly facing projection (142, fig. 11), a slide member (116, fig. 11) attached to and cooperating with the upper portion of the support strip to define an aperture (136, fig. 11) through which the downwardly extending portion of the hanger strip is insertable to create an interfering fit between the rearwardly facing projection and the detent members (figure 11), the slide member further comprising an upwardly extending resilient backing tab with forwardly extending

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projection (132, fig. 11) spaced apart from the rearwardly facing projection, the backing tab biasing an aligned detent member of the hanger strip into engagement with the rearwardly facing projection of the hook strip wherein the hanger and hook are molded of resilient plastic (Col. 10, lines 21-22) and wherein the rearwardly facing projection and detent members are shaped so as to enable the rearwardly facing projection to override the detent members whenever the hook strip slides upwardly relative to the hanger strip (col. 6, lines 22-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vertical adjustment connection of Knudsen'851 with the detent and slide member interlocking vertical adjustment taught by Benjamin'455 to eliminate the use of nuts and bolts for a quick vertical adjustment connection and to mold the hanger of Knudsen'864 from plastic material as taught by Benjamin'455 such that the hooks and connections can be resiliently deformed for interlocking engagements. Further, it would have been an obvious matter of design choice to make the hanger from polycarbonate resin as such material is old and well-known.

Allowable Subject Matter

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzgerald'325, Backerud'309, and Shepard'579 teach vertically adjustment hanger strip and hook strip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Korie H. Chan
Examiner
Art Unit 3632

khc
February 8, 2002